

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 289**

FINAL READING

Introduced by Pansing Brooks, 28; Brasch, 16; Linehan, 39; Morfeld, 46; Scheer, 19; Walz, 15; Watermeier, 1; Wishart, 27; Blood, 3; McCollister, 20; McDonnell, 5; Albrecht, 17; Hilkeemann, 4; Wayne, 13; Brewer, 43; Kolterman, 24; Hansen, 26.

Read first time January 11, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to law; to amend sections 25-2740, 28-101,  
2 28-311.04, 28-358.01, 28-802, 28-830, 28-831, 28-1206, 29-404.02,  
3 29-422, 42-903, 42-924, 42-925, 43-254, 43-283.01, 43-292.02,  
4 43-1303, 43-1411.01, 43-1609, 43-1611, and 43-2933, Reissue Revised  
5 Statutes of Nebraska; to provide for sexual assault protection  
6 orders; to define and redefine terms; to change provisions relating  
7 to court procedures, penalties for stalking, possession of a deadly  
8 weapon by a prohibited person, domestic violence protection orders,  
9 and certain arrests; to change provisions relating to pandering,  
10 human trafficking, labor trafficking, and sex trafficking; to  
11 prohibit solicitation of a trafficking victim; to change and provide  
12 penalties; to provide a procedure to renew a protection order; to  
13 change provisions relating to paternity of a child conceived as a  
14 result of sexual assault; to harmonize provisions; and to repeal the  
15 original sections.

16 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-2740, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 25-2740 (1) For purposes of this section:

4 (a) Domestic relations matters means proceedings under sections  
5 28-311.09 and 28-311.10 (including harassment protection orders and valid  
6 foreign harassment protection orders), sections 4 and 5 of this act  
7 (including sexual assault protection orders and valid foreign sexual  
8 assault protection orders), the Conciliation Court Law and sections  
9 42-347 to 42-381 (including dissolution, separation, annulment, custody,  
10 and support), section 43-512.04 (including child support or medical  
11 support), section 42-924 (including domestic protection orders), sections  
12 43-1401 to 43-1418 (including paternity determinations and parental  
13 support), and sections 43-1801 to 43-1803 (including grandparent  
14 visitation); and

15 (b) Paternity or custody determinations means proceedings to  
16 establish the paternity of a child under sections 43-1411 to 43-1418 or  
17 proceedings to determine custody of a child under section 42-364.

18 (2) Except as provided in subsection (3) of this section, in  
19 domestic relations matters, a party shall file his or her petition or  
20 complaint and all other court filings with the clerk of the district  
21 court. The party shall state in the petition or complaint whether such  
22 party requests that the proceeding be heard by a county court judge or by  
23 a district court judge. If the party requests the case be heard by a  
24 county court judge, the county court judge assigned to hear cases in the  
25 county in which the matter is filed at the time of the hearing is deemed  
26 appointed by the district court and the consent of the county court judge  
27 is not required. Such proceeding is considered a district court  
28 proceeding, even if heard by a county court judge, and an order or  
29 judgment of the county court in a domestic relations matter has the force  
30 and effect of a district court judgment. The testimony in a domestic  
31 relations matter heard before a county court judge shall be preserved as

1 provided in section 25-2732.

2 (3) In addition to the jurisdiction provided for paternity or  
3 custody determinations under subsection (2) of this section, a county  
4 court or separate juvenile court which already has jurisdiction over the  
5 child whose paternity or custody is to be determined has jurisdiction  
6 over such paternity or custody determination.

7 Sec. 2. Section 28-101, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 28-101 Sections 28-101 to 28-1357, ~~28-1418.01, 28-1429.03,~~ and  
10 28-1601 to 28-1603 and sections 4 and 5 of this act shall be known and  
11 may be cited as the Nebraska Criminal Code.

12 Sec. 3. Section 28-311.04, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 28-311.04 (1) Except as provided in subsection (2) of this section,  
15 any person convicted of violating section 28-311.03 is guilty of a Class  
16 I misdemeanor.

17 (2) Any person convicted of violating section 28-311.03 is guilty of  
18 a Class IIIA felony if:

19 (a) The person has a prior conviction under such section or a  
20 substantially conforming criminal violation within the last seven years;

21 (b) The victim is under sixteen years of age;

22 (c) The person possessed a deadly weapon at any time during the  
23 violation;

24 (d) The person was also in violation of section 28-311.09, 42-924,  
25 or 42-925 or section 4 of this act, or in violation of a valid foreign  
26 harassment protection order recognized pursuant to section 28-311.10 or a  
27 valid foreign sexual assault protection order recognized pursuant to  
28 section 5 of this act at any time during the violation; or

29 (e) The person has been convicted of any felony in this state or has  
30 been convicted of a crime in another jurisdiction which, if committed in  
31 this state, would constitute a felony and the victim or a family or

1 household member of the victim was also the victim of such previous  
2 felony.

3       Sec. 4. (1) Any victim of a sexual assault offense may file a  
4 petition and affidavit for a sexual assault protection order as provided  
5 in subsection (3) of this section. Upon the filing of such a petition and  
6 affidavit in support thereof, the court may issue a sexual assault  
7 protection order without bond enjoining the respondent from (a) imposing  
8 any restraint upon the person or liberty of the petitioner, (b)  
9 harassing, threatening, assaulting, molesting, attacking, or otherwise  
10 disturbing the peace of the petitioner, or (c) telephoning, contacting,  
11 or otherwise communicating with the petitioner.

12       (2) The petition for a sexual assault protection order shall state  
13 the events and dates of acts constituting the sexual assault offense.

14       (3) A petition for a sexual assault protection order shall be filed  
15 with the clerk of the district court and the proceeding may be heard by  
16 the county court or the district court as provided in section 25-2740.

17       (4) A petition for a sexual assault protection order may not be  
18 withdrawn except upon order of the court. A sexual assault protection  
19 order shall specify that it is effective for a period of one year unless  
20 renewed pursuant to subsection (11) of this section or otherwise  
21 dismissed or modified by the court. Any person who knowingly violates a  
22 sexual assault protection order after service or notice as described in  
23 subdivision (8)(b) of this section shall be guilty of a Class I  
24 misdemeanor except that for any second violation of a sexual assault  
25 protection order within a twelve-month period, or any third or subsequent  
26 violation, whenever committed, such person shall be guilty of a Class IV  
27 felony.

28       (5)(a) Fees to cover costs associated with the filing of a petition  
29 for issuance or renewal of a sexual assault protection order or the  
30 issuance or service of a sexual assault protection order seeking only the  
31 relief provided by this section shall not be charged, except that a court

1 may assess such fees and costs if the court finds, by clear and  
2 convincing evidence, that the statements contained in the petition were  
3 false and that the sexual assault protection order was sought in bad  
4 faith.

5 (b) A court may also assess costs associated with the filing of a  
6 petition for issuance or renewal of a sexual assault protection order or  
7 the issuance or service of a sexual assault protection order seeking only  
8 the relief provided by this section against the respondent.

9 (6) The clerk of the district court shall make available standard  
10 application and affidavit forms for issuance and renewal of a sexual  
11 assault protection order with instructions for completion to be used by a  
12 petitioner. The clerk and his or her employees shall not provide  
13 assistance in completing the forms. The State Court Administrator shall  
14 adopt and promulgate the standard application and affidavit forms  
15 provided for in this section as well as the standard temporary and final  
16 sexual assault protection order forms and provide a copy of such forms to  
17 all clerks of the district courts in this state. Such standard temporary  
18 and final sexual assault protection order forms shall be the only forms  
19 used in this state.

20 (7) A sexual assault protection order may be issued or renewed ex  
21 parte without notice to the respondent if it reasonably appears from the  
22 specific facts shown by affidavit of the petitioner that irreparable  
23 harm, loss, or damage will result before the matter can be heard on  
24 notice. If the specific facts included in the affidavit (a) do not show  
25 that the petitioner will suffer irreparable harm, loss, or damage or (b)  
26 show that, for any other compelling reason, an ex parte order should not  
27 be issued or renewed, the court may forthwith cause notice of the  
28 application to be given to the respondent stating that he or she may show  
29 cause, not more than fourteen days after service, why such order should  
30 not be entered. If such ex parte order is issued or renewed without  
31 notice to the respondent, the court shall forthwith cause notice of the

1 petition and order and a form with which to request a show-cause hearing  
2 to be given the respondent stating that, upon service on the respondent,  
3 the order shall remain in effect for a period of one year unless the  
4 respondent shows cause why the order should not remain in effect for a  
5 period of one year. If the respondent wishes to appear and show cause why  
6 the order should not remain in effect for a period of one year, he or she  
7 shall affix his or her current address, telephone number, and signature  
8 to the form and return it to the clerk of the district court within five  
9 days after service upon him or her. Upon receipt of the request for a  
10 show-cause hearing, the court shall immediately schedule a show-cause  
11 hearing to be held within thirty days after the receipt of the request  
12 for a show-cause hearing and shall notify the petitioner and respondent  
13 of the hearing date.

14 (8)(a) Upon the issuance or renewal of any sexual assault protection  
15 order, the clerk of the court shall forthwith provide the petitioner,  
16 without charge, with two certified copies of such order. The clerk of the  
17 court shall also forthwith provide the local police department or local  
18 law enforcement agency and the local sheriff's office, without charge,  
19 with one copy each of such order and one copy each of the sheriff's  
20 return thereon. The clerk of the court shall also forthwith provide a  
21 copy of the sexual assault protection order to the sheriff's office in  
22 the county where the respondent may be personally served together with  
23 instructions for service. Upon receipt of the order and instructions for  
24 service, such sheriff's office shall forthwith serve the sexual assault  
25 protection order upon the respondent and file its return thereon with the  
26 clerk of the court which issued the sexual assault protection order  
27 within fourteen days of the issuance of the initial or renewed sexual  
28 assault protection order. If any sexual assault protection order is  
29 dismissed or modified by the court, the clerk of the court shall  
30 forthwith provide the local police department or local law enforcement  
31 agency and the local sheriff's office, without charge, with one copy each

1 of the order of dismissal or modification.

2 (b) If the respondent is present at a hearing convened pursuant to  
3 this section and the sexual assault protection order is not dismissed,  
4 such respondent shall be deemed to have notice by the court at such  
5 hearing that the protection order will be granted and remain in effect  
6 and further service of such notice described in this subsection shall not  
7 be required for purposes of prosecution under this section. If the  
8 respondent has been properly served with the ex parte order and fails to  
9 appear at the hearing, the temporary order shall be deemed to be granted  
10 and remain in effect and the service of the ex parte order will serve as  
11 notice required under this section.

12 (9) A peace officer shall, with or without a warrant, arrest a  
13 person if (a) the officer has probable cause to believe that the person  
14 has committed a violation of a sexual assault protection order issued  
15 pursuant to this section or a violation of a valid foreign sexual assault  
16 protection order recognized pursuant to section 5 of this act and (b) a  
17 petitioner under this section provides the peace officer with a copy of  
18 such order or the peace officer determines that such an order exists  
19 after communicating with the local law enforcement agency.

20 (10) A peace officer making an arrest pursuant to subsection (9) of  
21 this section shall take such person into custody and take such person  
22 before the county court or the court which issued the sexual assault  
23 protection order within a reasonable time. At such time the court shall  
24 establish the conditions of such person's release from custody, including  
25 the determination of bond or recognizance, as the case may be. The court  
26 shall issue an order directing that such person shall have no contact  
27 with the alleged victim of the sexual assault offense.

28 (11) An order issued under subsection (1) of this section may be  
29 renewed annually. To request renewal of the order, the petitioner shall  
30 file a petition for renewal and affidavit in support thereof at least  
31 forty-five days prior to the date the order is set to expire. The

1 petition for renewal shall state the reasons a renewal is sought and  
2 shall be filed with the clerk of the district court, and the proceeding  
3 thereon may be heard by the county court or the district court as  
4 provided in section 25-2740. A petition for renewal will otherwise be  
5 governed in accordance with the procedures set forth in subsections (4)  
6 through (10) of this section.

7 (12) For purposes of this section, sexual assault offense means:

8 (a) Conduct amounting to sexual assault under section 28-319 or  
9 28-320 or sexual assault of a child under section 28-319.01 or 28-320.01  
10 or an attempt to commit any of such offenses; or

11 (b) Subjecting or attempting to subject another person to sexual  
12 contact or sexual penetration without his or her consent, as such terms  
13 are defined in section 28-318.

14 Sec. 5. (1) A valid foreign sexual assault protection order or an  
15 order similar to a sexual assault protection order issued by a court of  
16 another state, territory, possession, or tribe shall be accorded full  
17 faith and credit by the courts of this state and enforced as if it were  
18 issued in this state.

19 (2) A foreign sexual assault protection order issued by a court of  
20 another state, territory, possession, or tribe shall be valid if:

21 (a) The issuing court had jurisdiction over the parties and matter  
22 under the law of such state, territory, possession, or tribe;

23 (b) The respondent was given reasonable notice and an opportunity to  
24 be heard sufficient to protect the respondent's right to due process  
25 before the order was issued; and

26 (c) The sexual assault protection order from another jurisdiction  
27 has not been rendered against both the petitioner and the respondent,  
28 unless: (i) The respondent filed a cross or counter petition, complaint,  
29 or other written pleading seeking such a sexual assault protection order;  
30 and (ii) the issuing court made specific findings of sexual assault  
31 offenses against both the petitioner and respondent and determined that



1 each party was entitled to such an order.

2 (3) There is a presumption of the validity of the foreign protection  
3 order when the order appears authentic on its face.

4 (4) A peace officer may rely upon a copy of any putative valid  
5 foreign sexual assault protection order which has been provided to the  
6 peace officer by any source.

7 Sec. 6. Section 28-358.01, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 28-358.01 (1) Isolation means intentional acts (a) committed for the  
10 purpose of preventing, and which do prevent, a vulnerable adult or senior  
11 adult from having contact with family, friends, or concerned persons, (b)  
12 committed to prevent a vulnerable adult or senior adult from receiving  
13 his or her mail or telephone calls, (c) of physical or chemical restraint  
14 of a vulnerable adult or senior adult committed for purposes of  
15 preventing contact with visitors, family, friends, or other concerned  
16 persons, or (d) which restrict, place, or confine a vulnerable adult or  
17 senior adult in a restricted area for purposes of social deprivation or  
18 preventing contact with family, friends, visitors, or other concerned  
19 persons.

20 (2) Isolation does not include (a) medical isolation prescribed by a  
21 licensed physician caring for the vulnerable adult or senior adult, (b)  
22 action taken in compliance with a harassment protection order issued  
23 pursuant to section 28-311.09, a valid foreign harassment protection  
24 order recognized pursuant to section 28-311.10, a sexual assault  
25 protection order issued pursuant to section 4 of this act, a valid  
26 foreign sexual assault protection order recognized pursuant to section 5  
27 of this act, an order issued pursuant to section 42-924, an ex parte  
28 order issued pursuant to section 42-925, an order excluding a person from  
29 certain premises issued pursuant to section 42-357, or a valid foreign  
30 protection order recognized pursuant to section 42-931, or (c) action  
31 authorized by an administrator of a nursing home pursuant to section

1 71-6021.

2 Sec. 7. Section 28-802, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 28-802 (1) A person commits pandering if such person:

5 (a) Entices another person to become a prostitute; ~~or~~

6 (b) Procures or harbors therein an inmate for a house of  
7 prostitution or for any place where prostitution is practiced or allowed;  
8 ~~or~~

9 (c) Inveigles, entices, persuades, encourages, or procures any  
10 person to come into or leave this state for the purpose of prostitution  
11 or debauchery; or

12 (d) Receives or gives or agrees to receive or give any money or  
13 other thing of value for procuring or attempting to procure any person to  
14 become a prostitute or commit an act of prostitution or come into this  
15 state or leave this state for the purpose of prostitution or debauchery.

16 (2) Pandering is a Class ~~II~~ III felony ~~for a first offense, unless~~  
17 ~~the person being enticed, procured, harbored, or otherwise persuaded to~~  
18 ~~become a prostitute is under the age of eighteen years, in which case~~  
19 ~~pandering is a Class II felony for a first offense. Pandering is a Class~~  
20 ~~II felony for a second or subsequent offense.~~

21 Sec. 8. Section 28-830, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 28-830 For purposes of sections 28-830 and 28-831, the following  
24 definitions apply:

25 (1) Actor means a person who solicits, procures, or supervises the  
26 services or labor of another person;

27 (2) Commercial sexual activity means any sex act on account of which  
28 anything of value is given, promised to, or received by any person;

29 (3) Debt bondage means inducing another person to provide:

30 (a) Commercial sexual activity in payment toward or satisfaction of  
31 a real or purported debt; or

1 (b) Labor or services in payment toward or satisfaction of a real or  
2 purported debt if:

3 (i) The reasonable value of the labor or services is not applied  
4 toward the liquidation of the debt; or

5 (ii) The length of the labor or services is not limited and the  
6 nature of the labor or services is not defined;

7 (4) Financial harm means theft by extortion as described by section  
8 28-513;

9 (5) Forced labor or services means labor or services that are  
10 performed or provided by another person and are obtained or maintained  
11 through:

12 (a) Inflicting or threatening to inflict serious personal injury, as  
13 defined by section 28-318, on another person;

14 (b) Physically restraining or threatening to physically restrain the  
15 other person;

16 (c) Abusing or threatening to abuse the legal process against  
17 another person to cause arrest or deportation for violation of federal  
18 immigration law;

19 (d) Controlling or threatening to control another person's access to  
20 a controlled substance listed in Schedule I, II or III of section 28-405;

21 (e) Exploiting another person's substantial functional impairment as  
22 defined in section 28-368 or substantial mental impairment as defined in  
23 section 28-369;

24 (f) Knowingly destroying, concealing, removing, confiscating, or  
25 possessing any actual or purported passport or other immigration document  
26 or any other actual or purported government identification document of  
27 the other person; or

28 (g) Causing or threatening to cause financial harm to another  
29 person, including debt bondage;

30 (6) Labor or services means work or activity of economic or  
31 financial value;

1 (7) Labor trafficking means knowingly recruiting, enticing,  
2 harboring, transporting, providing, or obtaining by any means or  
3 attempting to recruit, entice, harbor, transport, provide, or obtain by  
4 any means a person eighteen years of age or older intending or knowing  
5 that the person will be subjected to forced labor or services;

6 (8) Labor trafficking of a minor means knowingly recruiting,  
7 enticing, harboring, transporting, providing, or obtaining by any means  
8 or attempting to recruit, entice, harbor, transport, provide, or obtain  
9 by any means a minor intending or knowing that the minor will be  
10 subjected to forced labor or services;

11 (9) Maintain means, in relation to labor or services, to secure  
12 continued performance thereof, regardless of any initial agreement by the  
13 other person to perform such type of service;

14 (10) Minor means a person younger than eighteen years of age;

15 ~~(11) Obtain means, in relation to labor or services, to secure~~  
16 ~~performance thereof;~~

17 ~~(12) Services means an ongoing relationship between the actor and~~  
18 ~~another person in which the person performs activities under the~~  
19 ~~supervision of or for the benefit of the actor. Commercial sexual~~  
20 ~~activity and sexually explicit performances are forms of services under~~  
21 ~~this section. Nothing in this subdivision shall be construed to legalize~~  
22 ~~prostitution;~~

23 (11) ~~(13)~~ Sex trafficking means knowingly  
24 recruiting, enticing, harboring, transporting, providing, soliciting, or  
25 obtaining by any means or knowingly attempting to recruit, entice,  
26 harbor, transport, provide, solicit, or obtain by any means a person  
27 eighteen years of age or older for the purpose of having such person  
28 engage without consent, as defined in section 28-318, in commercial  
29 sexual activity, sexually explicit performance, or the production of  
30 pornography or

31 to cause or attempt to cause a person eighteen years of age or older to

1 engage without consent, as defined in section 28-318, in commercial  
2 sexual activity, sexually explicit performance, or the production of  
3 pornography;

4 ~~(12)~~ (14) Sex trafficking of a minor means knowingly  
5 recruiting, enticing, harboring, transporting, providing, soliciting, or  
6 obtaining by any means or knowingly attempting to recruit, entice,  
7 harbor, transport, provide, solicit, or obtain by any means a minor for  
8 the purpose of having such minor engage in commercial sexual activity,  
9 sexually explicit performance, or the production of pornography or  
10 to cause or attempt to cause a minor to engage in commercial sexual  
11 activity, sexually explicit performance, or the production of  
12 pornography;

13 ~~(13)~~ (15) Sexually-explicit performance means a live or public play,  
14 dance, show, or other exhibition intended to arouse or gratify sexual  
15 desire or to appeal to prurient interests; and

16 ~~(14)~~ (16) Trafficking victim means a person subjected to any act or  
17 acts prohibited by section 28-831.

18 Sec. 9. Section 28-831, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 28-831 (1) Any person who engages in labor trafficking of a minor or  
21 sex trafficking of a minor is guilty of a Class IB ~~II~~ felony ~~if the actor~~  
22 ~~uses overt force or the threat of force or the trafficking victim has not~~  
23 ~~yet attained the age of sixteen years. Any person who otherwise engages~~  
24 ~~in labor trafficking of a minor or sex trafficking of a minor is guilty~~  
25 ~~of a Class IIA felony.~~

26 (2) Any person who engages in labor trafficking or sex trafficking  
27 ~~by inflicting or threatening to inflict serious personal injury, as~~  
28 ~~defined in section 28-318, on another person or physically restrains or~~  
29 ~~threatens to physically restrain another person is guilty of a Class IIA~~  
30 ~~felony. Any person who otherwise engages in labor trafficking or sex~~  
31 ~~trafficking is guilty of a Class II ~~III~~ felony.~~

1           (3) Any person, other than a trafficking victim, who knowingly  
2 benefits from or participates in a venture which has, as part of the  
3 venture, an act that is in violation of this section is guilty of a Class  
4 ~~IIA~~ ~~IIIA~~ felony.

5           (4) It is not a defense in a prosecution under this section (a) that  
6 consent was given by the minor victim, (b) that the defendant believed  
7 that the minor victim gave consent, or (c) that the defendant believed  
8 that the minor victim was an adult.

9           Sec. 10. Section 28-1206, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11           28-1206 (1) A person commits the offense of possession of a deadly  
12 weapon by a prohibited person if he or she:

13           (a) ~~Possesses~~ ~~Any person who possesses~~ a firearm, a knife, or brass  
14 or iron knuckles and he or she:

15           (i) ~~Has~~ ~~who has~~ previously been convicted of a felony;

16           (ii) ~~Is~~ ~~, who is~~ a fugitive from justice;

17           (iii) ~~Is~~ ~~, or who is~~ the subject of a current and validly issued  
18 domestic violence protection order,

19 harassment protection order, or sexual assault protection order and is  
20 knowingly violating such order; or

21           (b) ~~Possesses~~ ~~, or (b) any person who possesses~~ a firearm or brass  
22 or iron knuckles and he or she ~~who~~ has been convicted within the past  
23 seven years of a misdemeanor crime of domestic violence, ~~commits the~~  
24 ~~offense of possession of a deadly weapon by a prohibited person.~~

25           (2) The felony conviction may have been had in any court in the  
26 United States, the several states, territories, or possessions, or the  
27 District of Columbia.

28           (3)(a) Possession of a deadly weapon which is not a firearm by a  
29 prohibited person is a Class III felony.

30           (b) Possession of a deadly weapon which is a firearm by a prohibited  
31 person is a Class ID felony for a first offense and a Class IB felony for

1 a second or subsequent offense.

2 ~~(4)(a)~~ ~~(4)(a)(i)~~ For purposes of this section, misdemeanor crime of  
3 domestic violence means a crime that:

4 (i) Is ~~(A)(I) A crime that is~~ classified as a misdemeanor under the  
5 laws of the United States or the District of Columbia or the laws of any  
6 state, territory, possession, or tribe;

7 (ii) Has ~~(II) A crime that has,~~ as an element, the use or attempted  
8 use of physical force or the threatened use of a deadly weapon; and

9 (iii) Is ~~(III) A crime that is~~ committed by another against his or  
10 her spouse, his or her former spouse, a person with whom he or she has a  
11 child in common whether or not they have been married or lived together  
12 at any time, or a person with whom he or she is or was involved in a  
13 dating relationship as defined in section 28-323. ~~;~~ ~~or~~

14 (b) For purposes of this section, misdemeanor crime of domestic  
15 violence also includes the following offenses, if committed by a person  
16 against his or her spouse, his or her former spouse, a person with whom  
17 he or she is or was involved in a dating relationship as defined in  
18 section 28-323, or a person with whom he or she has a child in common  
19 whether or not they have been married or lived together at any time:

20 (i) (B)(I) Assault in the third degree under section 28-310; ~~;~~ ~~τ~~

21 (ii) Stalking ~~stalking~~ under subsection (1) of section 28-311.04; ~~;~~ ~~τ~~

22 (iii) False ~~false~~ imprisonment in the second degree under section  
23 28-315; ~~;~~ ~~τ~~

24 (iv) First ~~or first~~ offense domestic assault in the third degree  
25 under subsection (1) of section 28-323; or

26 (v) Any ~~any~~ attempt or conspiracy to commit any ~~one~~ of such these  
27 offenses. ~~;~~ ~~and~~

28 ~~(II) The crime is committed by another against his or her spouse,~~  
29 ~~his or her former spouse, a person with whom he or she has a child in~~  
30 ~~common whether or not they have been married or lived together at any~~  
31 ~~time, or a person with whom he or she is or was involved in a dating~~

1 ~~relationship as defined in section 28-323.~~

2 (c) ~~(ii)~~ A person shall not be considered to have been convicted of  
3 a misdemeanor crime of domestic violence unless:

4 (i) ~~(A)~~ The person was represented by counsel in the case or  
5 knowingly and intelligently waived the right to counsel in the case; and

6 (ii) ~~(B)~~ In the case of a prosecution for a misdemeanor crime of  
7 domestic violence for which a person was entitled to a jury trial in the  
8 jurisdiction in which the case was tried, either:

9 (A) ~~(I)~~ The case was tried to a jury; or

10 (B) ~~(II)~~ The person knowingly and intelligently waived the right to  
11 have the case tried to a jury.

12 (5) ~~(b)~~ For purposes of this section:

13 (a) Domestic ~~, subject of a current and validly issued domestic~~  
14 violence protection order means a protection order ~~pertains to a current~~  
15 court order that was validly issued pursuant to section 28-311.09 or  
16 42-924;

17 (b) Harassment protection order means a protection order issued  
18 pursuant to section 28-311.09 or that meets or exceeds the criteria set  
19 forth in section 28-311.10 regarding protection orders issued by a court  
20 in any other state or a territory, possession, or tribe; ~~and -~~

21 (c) Sexual assault protection order means a protection order issued  
22 pursuant to section 4 of this act or that meets or exceeds the criteria  
23 set forth in section 5 of this act regarding protection orders issued by  
24 a court in any other state or a territory, possession, or tribe.

25 Sec. 11. Section 29-404.02, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 29-404.02 (1) Except as provided in section 42-928 and section 4 of  
28 this act, a peace officer may arrest a person without a warrant if the  
29 officer has reasonable cause to believe that such person has committed:

30 (a) A felony;

31 (b) A misdemeanor, and the officer has reasonable cause to believe



1 that such person either (i) will not be apprehended unless immediately  
2 arrested, (ii) may cause injury to himself or herself or others or damage  
3 to property unless immediately arrested, (iii) may destroy or conceal  
4 evidence of the commission of such misdemeanor, or (iv) has committed a  
5 misdemeanor in the presence of the officer; or

6 (c) One or more of the following acts to one or more household  
7 members, whether or not committed in the presence of the peace officer:

8 (i) Attempting to cause or intentionally and knowingly causing  
9 bodily injury with or without a dangerous instrument;

10 (ii) Placing, by physical menace, another in fear of imminent bodily  
11 injury; or

12 (iii) Engaging in sexual contact or sexual penetration without  
13 consent as defined in section 28-318.

14 (2) For purposes of this section:

15 (a) Household members includes ~~shall include~~ spouses or former  
16 spouses, children, persons who are presently residing together or who  
17 have resided together in the past, persons who have a child in common  
18 whether or not they have been married or have lived together at any time,  
19 other persons related by consanguinity or affinity, and persons who are  
20 presently involved in a dating relationship with each other or who have  
21 been involved in a dating relationship with each other; and

22 (b) Dating relationship means frequent, intimate associations  
23 primarily characterized by the expectation of affectional or sexual  
24 involvement, but does not include a casual relationship or an ordinary  
25 association between persons in a business or social context.

26 Sec. 12. Section 29-422, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 29-422 It is hereby declared to be the policy of the State of  
29 Nebraska to issue citations in lieu of arrest or continued custody to the  
30 maximum extent consistent with the effective enforcement of the law and  
31 the protection of the public. In furtherance of that policy, except as

1 provided in sections 42-928 and 42-929 and section 4 of this act, any  
2 peace officer shall be authorized to issue a citation in lieu of arrest  
3 or continued custody for any offense which is a traffic infraction, any  
4 other infraction, or a misdemeanor and for any violation of a city or  
5 village ordinance. Such authorization shall be carried out in the manner  
6 specified in sections 29-422 to 29-429 and 60-684 to 60-686.

7 Sec. 13. Section 42-903, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 42-903 For purposes of the Protection from Domestic Abuse Act,  
10 unless the context otherwise requires:

11 (1) Abuse means the occurrence of one or more of the following acts  
12 between family or household members:

13 (a) Attempting to cause or intentionally and knowingly causing  
14 bodily injury with or without a dangerous instrument;

15 (b) Placing, by means of credible threat, another person in fear of  
16 bodily injury. For purposes of this subdivision, credible threat means a  
17 verbal or written threat, including a threat performed through the use of  
18 an electronic communication device, or a threat implied by a pattern of  
19 conduct or a combination of verbal, written, or electronically  
20 communicated statements and conduct that is made by a person with the  
21 apparent ability to carry out the threat so as to cause the person who is  
22 the target of the threat to reasonably fear for his or her safety or the  
23 safety of his or her family. It is not necessary to prove that the person  
24 making the threat had the intent to actually carry out the threat. The  
25 present incarceration of the person making the threat shall not prevent  
26 the threat from being deemed a credible threat under this section; or

27 (c) Engaging in sexual contact or sexual penetration without consent  
28 as defined in section 28-318;

29 (2) Department means the Department of Health and Human Services;

30 (3) Family or household members includes spouses or former spouses,  
31 children, persons who are presently residing together or who have resided

1 together in the past, persons who have a child in common whether or not  
2 they have been married or have lived together at any time, other persons  
3 related by consanguinity or affinity, and persons who are presently  
4 involved in a dating relationship with each other or who have been  
5 involved in a dating relationship with each other. For purposes of this  
6 subdivision, dating relationship means frequent, intimate associations  
7 primarily characterized by the expectation of affectional or sexual  
8 involvement, but does not include a casual relationship or an ordinary  
9 association between persons in a business or social context; and

10 (4) Law enforcement agency means the police department or town  
11 marshal in incorporated municipalities, the office of the sheriff in  
12 unincorporated areas, and the Nebraska State Patrol.

13 Sec. 14. Section 42-924, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 42-924 (1) Any victim of domestic abuse may file a petition and  
16 affidavit for a protection order as provided in subsections ~~subsection~~  
17 (2) and (3) of this section. Upon the filing of such a petition and  
18 affidavit in support thereof, the court may issue a protection order  
19 without bond granting the following relief:

20 (a) Enjoining the respondent from imposing any restraint upon the  
21 petitioner or upon the liberty of the petitioner;

22 (b) Enjoining the respondent from threatening, assaulting,  
23 molesting, attacking, or otherwise disturbing the peace of the  
24 petitioner;

25 (c) Enjoining the respondent from telephoning, contacting, or  
26 otherwise communicating with the petitioner;

27 (d) Removing and excluding the respondent from the residence of the  
28 petitioner, regardless of the ownership of the residence;

29 (e) Ordering the respondent to stay away from any place specified by  
30 the court;

31 (f) Awarding the petitioner temporary custody of any minor children

1 not to exceed ninety days;

2 (g) Enjoining the respondent from possessing or purchasing a firearm  
3 as defined in section 28-1201; or

4 (h) Ordering such other relief deemed necessary to provide for the  
5 safety and welfare of the petitioner and any designated family or  
6 household member.

7 (2) Petitions for protection orders shall be filed with the clerk of  
8 the district court, and the proceeding may be heard by the county court  
9 or the district court as provided in section 25-2740. A petition for a  
10 protection order may not be withdrawn except upon order of the court.

11 ~~(3)(a) A protection~~ ~~(3) A petition filed pursuant to subsection (1)~~  
12 ~~of this section may not be withdrawn except upon order of the court. An~~  
13 ~~order issued pursuant to subsection (1) of this section shall specify~~  
14 that it is effective for a period of one year and, if the order grants  
15 temporary custody, the number of days of custody granted to the  
16 petitioner unless otherwise modified by the court.

17 (b) Any victim of domestic abuse may file a petition and affidavit  
18 to renew a protection order. Such petition and affidavit for renewal  
19 shall be filed on or after thirty days before the expiration of the  
20 previous protection order. Such renewed order shall specify that it is  
21 effective for a period of one year to commence on the first day following  
22 the expiration of the previous order and, if the court grants temporary  
23 custody, the number of days of custody granted to the petitioner unless  
24 otherwise modified by the court.

25 (4) Any person who knowingly violates a protection order issued  
26 pursuant to ~~subsection (1) of this section~~ or section 42-931 after  
27 service or notice as described in subsection (2) of section 42-926 shall  
28 be guilty of a Class I misdemeanor, except that any person convicted of  
29 violating such order who has a prior conviction for violating a  
30 protection order shall be guilty of a Class IV felony.

31 (5) If there is any conflict between sections 42-924 to 42-926 and

1 any other provision of law, sections 42-924 to 42-926 shall govern.

2 Sec. 15. Section 42-925, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 42-925 (1) An order issued under ~~subsection (1)~~ of section 42-924  
5 may be issued ex parte to the respondent if it reasonably appears from  
6 the specific facts included in the affidavit that the petitioner will be  
7 in immediate danger of abuse before the matter can be heard on notice. If  
8 an order is issued ex parte, such order is a temporary order and the  
9 court shall forthwith cause notice of the petition and order to be given  
10 to the respondent. The court shall also cause a form to request a show-  
11 cause hearing to be served upon the respondent. If the respondent wishes  
12 to appear and show cause why the order should not remain in effect, he or  
13 she shall affix his or her current address, telephone number, and  
14 signature to the form and return it to the clerk of the district court  
15 within five days after service upon him or her. Upon receipt of the  
16 request for a show-cause hearing, the request of the petitioner, or upon  
17 the court's own motion, the court shall immediately schedule a show-cause  
18 hearing to be held within thirty days after the receipt of the request  
19 for a show-cause hearing and shall notify the petitioner and respondent  
20 of the hearing date. If the respondent appears at the hearing and shows  
21 cause why such order should not remain in effect, the court shall rescind  
22 the temporary order. If the respondent does not so appear and show cause,  
23 the temporary order shall be affirmed and shall be deemed the final  
24 protection order. If the respondent has been properly served with the ex  
25 parte order and fails to appear at the hearing, the temporary order shall  
26 be affirmed and the service of the ex parte order shall be notice of the  
27 final protection order for purposes of prosecution under subsection (4)  
28 of section 42-924.

29 (2) If an order under ~~subsection (1)~~ of section 42-924 is not issued  
30 ex parte, the court shall immediately schedule an evidentiary hearing to  
31 be held within fourteen days after the filing of the petition, and the

1 court shall cause notice of the hearing to be given to the petitioner and  
2 the respondent. If the respondent does not appear at the hearing and show  
3 cause why such order should not be issued, the court shall issue a final  
4 protection order.

5 (3) The court may by rule or order refer or assign all matters  
6 regarding orders issued under ~~subsection (1) of~~ section 42-924 to a  
7 referee for findings and recommendations.

8 (4) An order issued under ~~subsection (1) of~~ section 42-924 shall  
9 remain in effect for the a period provided in subsection (3) of section  
10 42-924 of one year from the date of issuance, unless dismissed or  
11 modified by the court prior to such date. If the order grants temporary  
12 custody, such custody shall not exceed the number of days specified by  
13 the court unless the respondent shows cause why the order should not  
14 remain in effect.

15 (5) The court shall also cause the notice created under section  
16 29-2291 to be served upon the respondent notifying the respondent that it  
17 may be unlawful under federal law for a person who is subject to a  
18 protection order to possess or receive any firearm or ammunition.

19 Sec. 16. Section 43-254, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 43-254 Pending the adjudication of any case, and subject to  
22 subdivision (5) of section 43-251.01, if it appears that the need for  
23 placement or further detention exists, the juvenile may be (1) placed or  
24 detained a reasonable period of time on order of the court in the  
25 temporary custody of either the person having charge of the juvenile or  
26 some other suitable person, (2) kept in some suitable place provided by  
27 the city or county authorities, (3) placed in any proper and accredited  
28 charitable institution, (4) placed in a state institution, except any  
29 adult correctional facility, when proper facilities are available and the  
30 only local facility is a city or county jail, at the expense of the  
31 committing county on a per diem basis as determined from time to time by

1 the head of the particular institution, (5) placed in the temporary care  
2 and custody of the Department of Health and Human Services when it does  
3 not appear that there is any need for secure detention, except that  
4 beginning October 1, 2013, no juvenile alleged to be a juvenile described  
5 in subdivision (1), (2), (3)(b), or (4) of section 43-247 shall be placed  
6 in the care and custody or under the supervision of the Department of  
7 Health and Human Services, or (6) beginning October 1, 2013, offered  
8 supervision options as determined pursuant to section 43-260.01, through  
9 the Office of Probation Administration as ordered by the court and agreed  
10 to in writing by the parties, if the juvenile is alleged to be a juvenile  
11 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and  
12 it does not appear that there is any need for secure detention. The court  
13 may assess the cost of such placement or detention in whole or in part to  
14 the parent of the juvenile as provided in section 43-290.

15 If a juvenile has been removed from his or her parent, guardian, or  
16 custodian pursuant to subdivision (2) of section 43-248, the court may  
17 enter an order continuing detention or placement upon a written  
18 determination that continuation of the juvenile in his or her home would  
19 be contrary to the health, safety, or welfare of such juvenile and that  
20 reasonable efforts were made to preserve and reunify the family if  
21 required under ~~subsections (1) through (4)~~ of section 43-283.01.

22 Sec. 17. Section 43-283.01, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 43-283.01 (1) In determining whether reasonable efforts have been  
25 made to preserve and reunify the family and in making such reasonable  
26 efforts, the juvenile's health and safety are the paramount concern.

27 (2) Except as provided in subsections (4) and (5) ~~subsection (4)~~ of  
28 this section, reasonable efforts shall be made to preserve and reunify  
29 families prior to the placement of a juvenile in foster care to prevent  
30 or eliminate the need for removing the juvenile from the juvenile's home  
31 and to make it possible for a juvenile to safely return to the juvenile's

1 home.

2 (3) If continuation of reasonable efforts to preserve and reunify  
3 the family is determined to be inconsistent with the permanency plan  
4 determined for the juvenile in accordance with a permanency hearing under  
5 section 43-1312, efforts shall be made to place the juvenile in a timely  
6 manner in accordance with the permanency plan and to complete whatever  
7 steps are necessary to finalize the permanent placement of the juvenile.

8 (4) Reasonable efforts to preserve and reunify the family are not  
9 required if a court of competent jurisdiction has determined that:

10 (a) The parent of the juvenile has subjected the juvenile or another  
11 minor child to aggravated circumstances, including, but not limited to,  
12 abandonment, torture, chronic abuse, or sexual abuse;

13 (b) The parent of the juvenile has (i) committed first or second  
14 degree murder to another child of the parent, (ii) committed voluntary  
15 manslaughter to another child of the parent, (iii) aided or abetted,  
16 attempted, conspired, or solicited to commit murder, or aided or abetted  
17 voluntary manslaughter of the juvenile or another child of the parent,  
18 (iv) committed a felony assault which results in serious bodily injury to  
19 the juvenile or another minor child of the parent, or (v) been convicted  
20 of felony sexual assault of the other parent of the juvenile under  
21 section 28-319.01 or 28-320.01 or a comparable crime in another state; or

22 (c) The parental rights of the parent to a sibling of the juvenile  
23 have been terminated involuntarily.

24 (5) Except as otherwise provided in the Nebraska Indian Child  
25 Welfare Act, if the family includes a child who was conceived by the  
26 victim of a sexual assault and a biological parent is convicted of the  
27 crime under section 28-319 or 28-320 or a law in another jurisdiction  
28 similar to either section 28-319 or 28-320, the convicted biological  
29 parent of such child shall not be considered a part of the child's family  
30 for purposes of requiring reasonable efforts to preserve and reunify the  
31 family.



1           ~~(6)~~ (5) If reasonable efforts to preserve and reunify the family are  
2 not required because of a court determination made under subsection (4)  
3 of this section, a permanency hearing, as provided in section 43-1312,  
4 shall be held for the juvenile within thirty days after the  
5 determination, reasonable efforts shall be made to place the juvenile in  
6 a timely manner in accordance with the permanency plan, and whatever  
7 steps are necessary to finalize the permanent placement of the juvenile  
8 shall be made.

9           ~~(7)~~ (6) Reasonable efforts to place a juvenile for adoption or with  
10 a guardian may be made concurrently with reasonable efforts to preserve  
11 and reunify the family, but priority shall be given to preserving and  
12 reunifying the family as provided in this section.

13           Sec. 18. Section 43-292.02, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15           43-292.02 (1) A petition shall be filed on behalf of the state to  
16 terminate the parental rights of the juvenile's parents or, if such a  
17 petition has been filed by another party, the state shall join as a party  
18 to the petition, and the state shall concurrently identify, recruit,  
19 process, and approve a qualified family for an adoption of the juvenile,  
20 if:

21           (a) A juvenile has been in foster care under the responsibility of  
22 the state for fifteen or more months of the most recent twenty-two  
23 months; or

24           (b) A court of competent jurisdiction has determined the juvenile to  
25 be an abandoned infant or has made a determination that the parent has  
26 committed murder of another child of the parent, committed voluntary  
27 manslaughter of another child of the parent, aided or abetted, attempted,  
28 conspired, or solicited to commit murder, or aided or abetted voluntary  
29 manslaughter of the juvenile or another child of the parent, or committed  
30 a felony assault that has resulted in serious bodily injury to the  
31 juvenile or another minor child of the parent. For purposes of this

1 subdivision, infant means a child eighteen months of age or younger.

2 (2) A petition shall not be filed on behalf of the state to  
3 terminate the parental rights of the juvenile's parents or, if such a  
4 petition has been filed by another party, the state shall not join as a  
5 party to the petition if the sole factual basis for the petition is that  
6 (a) the parent or parents of the juvenile are financially unable to  
7 provide health care for the juvenile or (b) the parent or parents of the  
8 juvenile are incarcerated. The fact that a qualified family for an  
9 adoption of the juvenile has been identified, recruited, processed, and  
10 approved shall have no bearing on whether parental rights shall be  
11 terminated.

12 (3) The petition is not required to be filed on behalf of the state  
13 or if a petition is filed the state shall not be required to join in a  
14 petition to terminate parental rights or to concurrently find a qualified  
15 family to adopt the juvenile under this section if:

16 (a) The child is being cared for by a relative;

17 (b) The Department of Health and Human Services has documented in  
18 the case plan or permanency plan, which shall be available for court  
19 review, a compelling reason for determining that filing such a petition  
20 would not be in the best interests of the juvenile; or

21 (c) The family of the juvenile has not had a reasonable opportunity  
22 to avail themselves of the services deemed necessary in the case plan or  
23 permanency plan approved by the court if reasonable efforts to preserve  
24 and reunify the family are required under section 43-283.01.

25 (4) Except as otherwise provided in the Nebraska Indian Child  
26 Welfare Act, if a child is conceived by the victim of a sexual assault, a  
27 petition for termination of parental rights of the perpetrator shall be  
28 granted if such termination is in the best interests of the child and (a)  
29 the perpetrator has been convicted of or pled guilty or nolo contendere  
30 to sexual assault of the child's birth parent under section 28-319 or  
31 28-320 or a law in another jurisdiction similar to either section 28-319

1 or 28-320 or (b) the perpetrator has fathered the child or given birth to  
2 the child as a result of such sexual assault.

3 Sec. 19. Section 43-1303, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 43-1303 (1) The office shall maintain the statewide register of all  
6 foster care placements occurring within the state, and there shall be a  
7 weekly report made to the registry of all foster care placements by the  
8 Department of Health and Human Services, any child-placing agency, or any  
9 court in a form as developed by the office in consultation with  
10 representatives of entities required to make such reports. For each child  
11 entering and leaving foster care, such report shall consist of  
12 identifying information, placement information, the plan or permanency  
13 plan developed by the person or court in charge of the child pursuant to  
14 section 43-1312, and information on whether any such child was a person  
15 immune from criminal prosecution under subsection (5) of section 28-801  
16 or was considered a trafficking victim as defined in ~~subdivision (16) of~~  
17 section 28-830. The department, the Office of Probation Administration,  
18 and every court and child-placing agency shall report any foster care  
19 placement within three working days. The report shall contain the  
20 following information:

21 (a) Child identification information, including name, date of birth,  
22 gender, race, religion, and ethnicity;

23 (b) Identification information for parents and stepparents,  
24 including name, address, and status of parental rights;

25 (c) Placement information, including initial placement date, current  
26 placement date, and the name and address of the foster care placement;

27 (d) Court status information, including which court has  
28 jurisdiction, initial custody date, court hearing date, and results of  
29 the court hearing;

30 (e) Agency or other entity having custody of the child; and

31 (f) Case worker, probation officer, or person providing direct case

1 management or supervision functions.

2 (2)(a) The Foster Care Review Office shall designate a local board  
3 to conduct foster care file audit case reviews for each case of children  
4 in foster care placement.

5 (b) The office may adopt and promulgate rules and regulations for  
6 the following:

7 (i) Establishment of training programs for local board members which  
8 shall include an initial training program and periodic inservice training  
9 programs;

10 (ii) Development of procedures for local boards;

11 (iii) Establishment of a central record-keeping facility for all  
12 local board files, including foster care file audit case reviews;

13 (iv) Accumulation of data and the making of annual reports on  
14 children in foster care placements. Such reports shall include, but not  
15 be limited to, (A) personal data on length of time in foster care, (B)  
16 number of placements, (C) frequency and results of foster care file audit  
17 case reviews and court review hearings, (D) number of children supervised  
18 by the foster care programs in the state annually, (E) trend data  
19 impacting foster care, services, and placements, (F) analysis of the  
20 data, and (G) recommendations for improving the foster care system in  
21 Nebraska;

22 (v) Accumulation of data and the making of quarterly reports  
23 regarding the children in foster care placements;

24 (vi) To the extent not prohibited by section 43-1310, evaluation of  
25 the judicial and administrative data collected on foster care and the  
26 dissemination of such data to the judiciary, public and private agencies,  
27 the department, and members of the public; and

28 (vii) Manner in which the office shall determine the appropriateness  
29 of requesting a court review hearing as provided for in section 43-1313.

30 (3) A local board shall send a written report to the office for each  
31 foster care file audit case review conducted by the local board. A court

1 shall send a written report to the office for each foster care review  
2 hearing conducted by the court.

3 (4) The office shall report and make recommendations to the  
4 Legislature, the department, the Office of Probation Administration, the  
5 courts, local boards, and county welfare offices. Such reports and  
6 recommendations shall include, but not be limited to, the annual judicial  
7 and administrative data collected on foster care pursuant to subsections  
8 (2) and (3) of this section and the annual evaluation of such data. The  
9 report and recommendations submitted to the Legislature shall be  
10 submitted electronically. In addition, the Foster Care Review Office  
11 shall provide copies of such reports and recommendations to each court  
12 having the authority to make foster care placements. The executive  
13 director of the office shall also provide, at a time specified by the  
14 Health and Human Services Committee of the Legislature, regular  
15 electronic updates regarding child welfare data and information at least  
16 quarterly, and a fourth-quarter report which shall be the annual report.  
17 The executive director shall include issues, policy concerns, and  
18 problems which have come to the office and the executive director from  
19 analysis of the data. The executive director shall recommend alternatives  
20 to the identified problems and related needs of the office and the foster  
21 care system to the committee. The Health and Human Services Committee  
22 shall coordinate and prioritize data and information requests submitted  
23 to the office by members of the Legislature. The annual report of the  
24 office shall be completed by December 1 each year and shall be submitted  
25 electronically to the committee.

26 (5) The executive director of the office or his or her designees  
27 from the office may visit and observe foster care facilities in order to  
28 ascertain whether the individual physical, psychological, and  
29 sociological needs of each foster child are being met.

30 (6) At the request of any state agency, the executive director of  
31 the office or his or her designees from the office may conduct a case

1 file review process and data analysis regarding any state ward or ward of  
2 the court whether placed in-home or out-of-home at the time of the case  
3 file review.

4 Sec. 20. Section 43-1411.01, Reissue Revised Statutes of Nebraska,  
5 is amended to read:

6 43-1411.01 (1) An action for paternity or parental support under  
7 sections 43-1401 to 43-1418 may be initiated by filing a complaint with  
8 the clerk of the district court as provided in section 25-2740. Such  
9 proceeding may be heard by the county court or the district court as  
10 provided in section 25-2740. A paternity determination under sections  
11 43-1411 to 43-1418 may also be decided in a county court or separate  
12 juvenile court if the county court or separate juvenile court already has  
13 jurisdiction over the child whose paternity is to be determined.

14 (2) Whenever termination of parental rights is placed in issue in  
15 any case arising under sections 43-1401 to 43-1418, the Nebraska Juvenile  
16 Code and the Parenting Act shall apply to such proceedings.

17 (3) The court may stay the paternity action if there is a pending  
18 criminal allegation of sexual assault under section 28-319 or 28-320 or a  
19 law in another jurisdiction similar to either section 28-319 or 28-320  
20 against the alleged father with regard to the conception of the child.

21 Sec. 21. Section 43-1609, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 43-1609 (1) Child support referees shall be appointed when necessary  
24 by the district courts, separate juvenile courts, and county courts to  
25 meet the requirements of federal law relating to expediting the  
26 establishment, modification, enforcement, and collection of child,  
27 spousal, or medical support and protection orders issued under ~~subsection~~  
28 ~~(1)~~ of section 42-924.

29 (2) Child support referees shall be appointed by order of the  
30 district court, separate juvenile court, or county court. The Supreme  
31 Court shall appoint child support referees to serve more than one

1 judicial district if the Supreme Court determines it is necessary.

2 (3) To be qualified for appointment as a child support referee, a  
3 person shall be an attorney in good standing admitted to the practice of  
4 law in the State of Nebraska and shall meet any other requirements  
5 imposed by the Supreme Court. A child support referee shall be sworn or  
6 affirmed to well and faithfully hear and examine the cause and to make a  
7 just and true report according to the best of his or her understanding.  
8 The oath or affirmation may be administered by a district, county, or  
9 separate juvenile court judge. A child support referee may be removed at  
10 any time by the appointing court.

11 (4) The Supreme Court may contract with an attorney to perform the  
12 duties of a referee for a specific case or for a specific amount of time  
13 or may direct a judge of the county court to perform such duties.

14 Sec. 22. Section 43-1611, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 43-1611 A district court, separate juvenile court, or county court  
17 may by rule or order refer or assign any and all matters regarding the  
18 establishment, modification, enforcement, and collection of child,  
19 spousal, or medical support, paternity matters, and protection orders  
20 issued under ~~subsection (1) of~~ section 42-924 to a child support referee  
21 for findings and recommendations.

22 Sec. 23. Section 43-2933, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 43-2933 (1)(a) No person shall be granted custody of, or  
25 unsupervised parenting time, visitation, or other access with, a child if  
26 the person is required to be registered as a sex offender under the Sex  
27 Offender Registration Act for an offense that would make it contrary to  
28 the best interests of the child for such access or for an offense in  
29 which the victim was a minor or if the person has been convicted under  
30 section 28-311, 28-319.01, 28-320, 28-320.01, or 28-320.02, unless the  
31 court finds that there is no significant risk to the child and states its

1 reasons in writing or on the record.

2 (b) No person shall be granted custody of, or unsupervised parenting  
3 time, visitation, or other access with, a child if anyone residing in the  
4 person's household is required to register as a sex offender under the  
5 Sex Offender Registration Act as a result of a felony conviction in which  
6 the victim was a minor or for an offense that would make it contrary to  
7 the best interests of the child for such access unless the court finds  
8 that there is no significant risk to the child and states its reasons in  
9 writing or on the record.

10 (c) The fact that a child is permitted unsupervised contact with a  
11 person who is required, as a result of a felony conviction in which the  
12 victim was a minor, to be registered as a sex offender under the Sex  
13 Offender Registration Act shall be prima facie evidence that the child is  
14 at significant risk. When making a determination regarding significant  
15 risk to the child, the prima facie evidence shall constitute a  
16 presumption affecting the burden of producing evidence. However, this  
17 presumption shall not apply if there are factors mitigating against its  
18 application, including whether the other party seeking custody, parenting  
19 time, visitation, or other access is also required, as the result of a  
20 felony conviction in which the victim was a minor, to register as a sex  
21 offender under the Sex Offender Registration Act.

22 (2) Except as otherwise provided in the Nebraska Indian Child  
23 Welfare Act, no No person shall be granted custody, parenting time,  
24 visitation, or other access with a child if the person has been convicted  
25 under section 28-319 or 28-320 or a law in another jurisdiction similar  
26 to either section 28-319 or 28-320 and the child was conceived as a  
27 result of that violation unless the custodial parent or guardian, as  
28 defined in section 43-245, consents.

29 (3) A change in circumstances relating to subsection (1) or (2) of  
30 this section is sufficient grounds for modification of a previous order.

31 Sec. 24. Original sections 25-2740, 28-101, 28-311.04, 28-358.01,



1 28-802, 28-830, 28-831, 28-1206, 29-404.02, 29-422, 42-903, 42-924,  
2 42-925, 43-254, 43-283.01, 43-292.02, 43-1303, 43-1411.01, 43-1609,  
3 43-1611, and 43-2933, Reissue Revised Statutes of Nebraska, are repealed.